IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

Crl.MC.No. 498 of 2007()

CRIME NO. 49/07 OF VADAKKEKKARA POLICE STATION

PETITIONER:

SHIBU, S/O. BASIL,
ARAKKAL HOUSE, CHENDAMANGALAM VILLAGE,
N. PARUR TALUK.

BY ADV. SRI.B.PREMOD
SRI.RENY ANTONY

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
S.I.OF POLICE, VADAKKEKKARA
CRIME NO.49/2007, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 498 of 2007

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Dated this the 27th day of February, 2007

O R D E R

The petitioner claims to be the owner as well as the driver of a vehicle KL-o8 AE 2145. The Vadakkekkara police has registered crime No.49 of 2007 under Section 279 I.P.C. and Section 119 r/w. 179 of the M.V. Act as also S.21 of the Kerala Protection of River Banks and Regulation of Removal of Sand, 2001. Investigation is proceeding. The police are making attempt to effect seizure of the vehicle of the petitioner as the vehicle involved in the said crime. According to the petitioner, his vehicle or himself is not in any way connected with the crime registered as Crime No.49 of 2007. According to the petitioner some other vehicle may have misutilised the number of the petitioner's vehicle. It may be a case of mistaken identity. If the petitioner's vehicle is seized, that would cause needless vexation, prejudice and loss to the petitioner. In these circumstances it is prayed that invoking the powers under Section 482 Cr.P.C. the petitioner may be saved of the trauma of undeserved seizure of the petitioner's vehicle. If seized the same be directed to be released.

2. I am not satisfied that there are any circumstances justifying the invocation of the powers under Section 482 Cr.P.C. Whether the petitioner's vehicle was actually involved in the incident or whether some one had misutilised the number of the petitioner's vehicle are not matters which can be resolved at this stage of the proceedings under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C. are to be invoked in exceptional cases in aid of justice. I do not, in the facts and circumstances of this case, find any reason to invoke such powers. The powers of the police to effect seizure in an appropriate case need not be prevented by issue of any direction under Section 482 Cr.P.C.

3. If the vehicle is seized, needless to say, the petitioner shall have the option to apply for release of the vehicle. I have no reason to assume that the authorities concerned will not consider such prayer for release in accordance with law, on merits and expeditiously. If the seizing official does not return the vehicle to the petitioner, he shall have the option to approach the learned Magistrate. If the learned Magistrate does not accept the request, the avenues of challenge are open to the petitioner. At this stage of the proceedings, I am not satisfied that any direction regarding release of the vehicle, which has not been seized yet, can or need be issued.

4. This Crl.M.C. is accordingly dismissed.

(R. BASANT)
Judge

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